

PLANNING BOARD MEETING

TIPP CITY, MIAMI COUNTY, OHIO

JANUARY 9, 2007

Meeting

Chairman Michael McFarland called this meeting of the Tipp City Planning Board to order at 7:30 p.m.

Roll Call

Roll call showed the following Board members present: Mike McFarland, John Berbach, Mark Springer and Robert Horrocks.

Others in attendance: City Manager David Collinsworth, City Engineer/Service Director Scott Vagedes, Kim Patterson-Notary, and Board Secretary Marilyn Fennell. Those signing the guest register included: John C. Borchers, Shane R. Morris, Joe Bagi, Adam Blake, Tom Boardman, Pat Hale (Council Member), David M. Burig, Paul Lee, Paul Dehus, Jaydee Blair and Paul Courtney. Nancy Bowman of the *Dayton Daily News*, Matt Bayman of the *Independent Voice*, and Mike Kelly of the *Tipp City Herald* were also present.

Excuse Absent Board Member

Mr. Horrocks **moved to excuse Mr. Blake from the meeting.** Mr. Springer seconded the motion. Motion carried 4-0.

Amend Agenda: Add Item

Mr. McFarland **moved to amend the agenda by adding Election of Chairman, Vice-Chairman and appointment of Board member to the Community Reinvestment Area Housing Council.** Mr. Horrocks seconded the motion. Motion carried 4-0.

Election of Chairman and Vice-Chairman; Appointment to Community Reinvestment Council

Mr. McFarland opened the nominations for Chairman. Mr. Springer **nominated Mike McFarland.** Mr. Horrocks seconded the nomination. There were no further nominations. Mr. Horrocks **moved to close the nominations.** Motion carried unanimously. Mr. McFarland was elected Chairman by a vote of 3-0-1. Ayes: Berbach, Horrocks, and Springer. Mr. McFarland abstained.

Mr. McFarland opened the nominations for Vice-Chairman. Mr. Berbach nominated Robert Horrocks. Mr. McFarland seconded the nomination. Mr. Springer **moved to close the nominations.** Mr. Berbach seconded the motion. Motion passed 3-0-1. Ayes: Springer, Berbach, and McFarland. Mr. Horrocks was elected Vice-Chairman by a vote of 3-0-1. Ayes: Springer, McFarland, and Berbach. Mr. Horrocks abstained.

Mr. McFarland was appointed as the representative to the Community Reinvestment Council. Mr. Collinsworth said that this council reviews annually the agreements with properties that have been granted tax incentives. The meeting takes place in March.

Approval of Minutes December 12, 2006 Workshop Meeting

Mr. Berbach **moved to approve the minutes of the December 12, 2006 workshop meeting as presented.** Mr. McFarland seconded the motion. Motion carried 3-0-1. Ayes: Berbach, McFarland, and Horrocks. Abstained: Mr. Springer

December 12, 2006 Meeting

Mr. Horrocks **moved to approve the minutes of the December 12, 2006 meeting as presented.** Mr. Berbach seconded the motion. Motion carried 3-0-1. Ayes: Horrocks, Berbach, and McFarland.

Items not on the Agenda

Abstained: Mr. Springer.

There were no comments on items not on the agenda.

NEW BUSINESS
Deadline Dates

Chairman McFarland announced that the next regularly scheduled Planning Board meeting would be held Tuesday, February 13, 2007. Preliminary Plans, Final Plats and Site Plans must be submitted by 5:00 p.m. on January 22, 2007 and temporary sign requests for display over 30 days must be submitted by 5:00 p.m. on February 7, 2007.

Swearing-in

Mrs. Patterson swore in those parties wishing to testify during the scheduled public hearing.

Public Hearing:
Legacy Overlay
District-Code
Enactment §154.064

Mr. McFarland **moved to open the public hearing for the enactment of the Legacy Overlay District, §154.064.** Mr. Springer seconded the motion. Motion carried 4-0.

Mr. Collinsworth said he described the efforts to establish the Legacy District at the pre-meeting workshop. He said the City sought to redevelop and reinvest in this area which runs adjacent to the CSX railroad lines. He said it was an area that was historically developed with a lot of industrial uses. This Reuse Plan was a way to use these properties. The Reuse Plan was adopted by Council and now this is part of the strategy to create a new zoning classification. The Legacy District will retain its underlying zoning. The Legacy District will be an overlay zoning. There had been several discussions previously on this ordinance. One discussion was regarding air conditioning units on the front of the building (pre-existing). The provisions of this ordinance would apply to all new construction or the expansion of an existing structure.

Mr. Collinsworth the overlay district will allow flexibility in use and with that there will be some additional requirements with site plan review and design standards that Planning Board will have discretion as individual projects are reviewed. The recommendation of the ordinance to City Council is a critical piece of the Legacy Plan. Staff recommends that Planning Board recommend approval of this ordinance to City Council.

Mr. McFarland asked for any questions or comments from those sworn in. Mr. Paul Lee came forward and thanked the Planning Board for the time put into this matter. He owns a couple of properties and it will be a great help to himself and other property owners. There were no other comments.

Mr. McFarland asked for Board member comments. There were none. Mr. Horrocks **moved to close the public hearing.** Mr. Springer seconded the motion. Motion passed 4-0.

Mr. Horrocks **moved to recommend to City Council the Legacy Overlay District code revisions as attached to the staff report.** Mr. Berbach seconded the motion. Motion passed 4-0. Mr. McFarland said speaking for the Board, he appreciated the staff's assistance and the numerous rewrites to get this project to this stage.

David Arbogast Buick
Pontiac GMC, 3540 S
CR 25A, Inlot 3505 &
Pt 3344-Site Plan
Revision

Mr. Collinsworth said this is a request for an expansion of the parking area in the northwest corner of the facility. The site plan indicates that the dimensions are 50' x 145' (7,250sf). There are to be two 24' wide parking lanes. The applicant is requesting the continuation of a variance granted on August 9, 2005 to allow for bumper blocks to be moved. The drainage is a sheet drainage system from the parking area to the east and south into the detention basin. Lighting meets the minimum 2 lumens per our City code. The landscaping plan indicates a 200 s.f. island in the northeast corner of the lot expansion area. The storm water requirements have raised some concerns and City Engineer Scott Vagedes was present to address those concerns.

Mr. Vagedes said the storm water basin was to be revised with the applicant's prior submission and it was worked on. There was an area of fill missed on the levee area. There is a 40' rear area that needs filled. When good weather arrives, this can be done. He did not see an issue with the site plan approval. There is a \$1200 bond being held until the modifications are approved by Mr. Vagedes. Mr. Springer asked if the applicant was aware of this. Mr. Vagedes said Mr. Boardman, the applicant's representative was aware of this and had no issue with the condition.

Mr. Collinsworth said staff is recommending approval of the site plan revision with three conditions. Those are 1) the Temporary Certificate of Occupancy shall be extended to May 30, 2007 to allow for the completion of the detention basin and a certification of the required design volume, 2) The Planning Board grants a waiver to allow eastern limits of the proposed parking area to be constructed with bumper blocks via the relocation of the existing bumper blocks, and 3) the applicant must obtain authorization/approval from the Planning Board for any proposed modification to the approved site plan prior to the construction/undertaking of any such proposed modifications.

Mr. Berbach asked about a prior approval. Mr. McFarland said a parking area had been approved earlier with a new building structure and this was an add-on to that parking area. Mr. Springer asked if there were any changes in the landscaping plans. Mr. Collinsworth said there is additional landscaping with the island. Mr. Horrocks said he was seeing fencing on the plan. Mr. Boardman came forward and said there were no changes in the fencing for this expansion, the fencing shown was from the original site plan approval.

Mr. Springer **moved to approve the site plan revision for an expansion of the parking area for Inlot 3505 and Pt. IL 3344 with the 3 conditions in the staff report.** Mr. Horrocks seconded the motion. Motion carried 4-0.

Old Business
Gerald & Goldie
Thompson, 425 Kerr
Road, Inlot 2349- Pre-
Application
Sketch/Preliminary
Plat for Major
Subdivision

Mr. Berbach **moved to remove this item from the table.** Mr. McFarland seconded the motion. Motion carried 4-0.

Mr. Collinsworth said this item as a carry-over from the December 12, 2006 meeting. It pertains to the subdivision of the parcel at 425 Kerr Road. It is a \pm 4.5 acre parcel to be divided into two equal lots of record each being 2.241 acres in area. The main issue was the discussion as to the status relative to our subdivision requirements. The subdivision of the property by our code would be defined as a "major"

subdivision. In the staff report that is spelled out. First and foremost is the requirement of right-of-way and the widening of right-of-way at 425 Kerr Road. Kerr Road, in our current and in our newly adopted Thoroughfare Plan, is a major collector designated as a road with 60' width. Mr. Collinsworth said the street right of way needs to be platted by the subdivider at this width. He continued that it is not a "minor" subdivision per §155.010, which would exist on a road that involves no opening, widening or extension of the roadway. The widening of Kerr Road from 43' to 60' deems this a "major" subdivision by default.

Mr. Collinsworth said the subdivider must submit a Pre-Application Sketch, a Preliminary Plat and a Final Plat. Those requirements include:

- A. The proper arrangement of streets or highways in relation to existing of planned streets or highways, or to the Official Thoroughfare Plan.
- B. Adequate and convenient open spaces for vehicular and pedestrian traffic, utilities, access of fire fighting apparatus, recreation, light, and air.
- C. The avoidance of congestion of population.
- D. The orderly and efficient layout and the appropriate use of the land.
- E. The accurate surveying of land, preparing and recording of plats, and the equitable handling of all subdivision plats by providing uniform procedures and standards for observance by both the approving authority and subdividers.

Mr. Collinsworth said the applicant is represented by legal counsel and in his attached letter dated December 22, 2006, he contend that the proposed subdivision is not a "major" subdivision and therefore not subject to the requirements listed above. The new Thoroughfare Plan requires the dedication and widening of Kerr Road from 43.5' to 60'. The subdivider shall be responsible for all requirements, including the required pavement width on an undivided street. Mr. Collinsworth said the recommendation from Staff remains unchanged from last month. The Board can approve the Pre-Application Sketch/Preliminary Plat and set a Public Hearing for February 13, 2007. Again per City code, certain improvements may be waived on review by the Planning Board, however the right-of-way dedication shall be required. Mr. Moore, Law Director, has reviewed a question that the Board had last month and certain improvements may be waived.

Mr. McFarland asked if dedication of the ROW meant it had to be put in. Mr. Collinsworth said that was subject to Planning Board's action. If the improvements are not made there must be the dedication so that it could be put in at a later date.

Mr. Paul Courtney, counsel for the owners Gerald and Goldie Thompson, came forward. He did take issue with some conclusions by staff, specifically that they think it is a "minor" subdivision. He referred to §155.074(A), saying that "any of the land to be subdivided or resubdivided includes any part of a proposed arterial or collector street"; Mr. Courtney said Kerr Road is not a proposed road, it exists. Under §155.107(D), it states "in cases in which a proposed thoroughfare, as shown on the Official Thoroughfare Plan, abuts or crosses the proposed subdivision....". Mr. Courtney said §155.107(E) is what needs to be

discussed. It says "when developing along 1 side of an existing thoroughfare which requires improvement as recommended in the Official Thoroughfare Plan". Mr. Courtney said they are not "developing" these lots, simply drawing a line down the middle and coming up with two lots. There is no proposal to improve the land or build any structures on the parcels. He thought the Planning Board could resolve itself that this is a "minor" subdivision. Mr. Courtney said he has proposed a compromise where the applicant is willing to dedicate the right-of-way and propose a resolution that states that this is a minor subdivision and is accepted as such and processed as such conditioned upon the owners doing all acts to dedicate the right-of-way to the City. Another item that was brought up at the last meeting was the Chair's statement that if the improvements are not assessed then the City will pay for the improvements to be made. Mr. Courtney said if a developer comes in, he is required to put in all utilities and all improvements, but not all of the City's infrastructure has been put in by developers. Some of it has been put in by the City, he assumed. If the right-of-way is dedicated, then the City can install it when they are ready or when other development occurs out there or the road is widened. The property owner can be assessed for whatever is put in. The current owner is being told to put up a bond to be carried indefinitely until the road is widened. He said he was not sure what the Thompsons would do if they have the choice to do all the work into a detailed drawing of how the road would look. It would be too big a burden for them and they may choose to withdraw their submission. One house could be built and the City won't get the right-of-way. He said he was just stating this, not as a threat. The City will have to buy the right-of-way at sometime. He asked that they were asking for approval as a minor subdivision, with the condition that the right-of-way be dedicated, and that the Thompsons carry out all acts to accomplish that and secondarily that the submission of the road widening be waived and any bonding be waived. He thanked the Board for their time.

Mr. Spangler asked about the conversation with Law Director Moore. Mr. Collinsworth said he had his reply this evening. Mr. Courtney cited that he thought two of the code sections quoted in the staff report were for a "proposed" thoroughfare and this is an "existing" road. Mr. Collinsworth said the word "proposed" being the same as a non-existing road is not correct. There are pre-existing roads that can be improved from collector to arterial status or from minor collector to major collector status.

Mr. Horrocks said that when a person purchases land, they expect to do what the market generally allows. He said an \$85,000 obligation to a 5-acre lot is not practical for one or two homes. He said the Board can decide that one house can be built on the lot or find a way to waive the improvements. Mr. McFarland said the Board could go with a dedication of right-of-way to be put in at a later date but it will still be a major subdivision and a bond will be required. Mr. Spangler said it does look ridiculous at first that this is a major subdivision but at the same time we have to be careful; where do we draw the line, 10, 15 acres? He said they have the code to follow and not create a problem down the road.

Mr. Horrocks said this is a circumstance that it is being divided into two lots but what if the Thompsons wanted to buy additional

adjoining acreage and parcel it into 4, would we do that for the additional acreage.

Mr. McFarland said we can waive the road improvements by allowing a dedication to be put in at a later date but the applicant still has to pay for the bond. That is what the code states.

Mr. Vagedes reminded the Board that to dedicate the ROW, it requires a Plat and acceptance by City Council. Therefore it cannot be done by metes and bounds description. A plat drawing would be required.

Mr. Courtney said the choices given by Mr. Vath at the last meeting were 1) install the road now or 2) bond it off and be installed later. He did say requirements could be waived but the dedication of ROW must be done per the staff report. Mr. Courtney said the improvements and the bond could be waived but a drawing with the engineering work required to widen the road would need to be submitted. Mr. Collinsworth said according to the Law Director, the bond could not be waived but the improvements that would be mandated by the bond could be waived. Mr. Courtney then asked what was being bonded. Mr. Collinsworth said the recommendation was that the subdivider, prior to the approval of the plat, guarantee to the City for the public improvement costs adjacent to and abutting the proposed subdivision that are not assessable to the future property owners. The preliminary estimate for those unassessable improvements shall be \$85,000. Mr. Courtney said he did not understand if the work is waived then what do they tell the insurance company as to what is being bonded.

Mr. Collinsworth said that Mr. Moore said certain improvements could be waived and to the extent that Planning Board does waive certain improvements the bonding of those improvements would not be necessitated.

Mr. Horrocks said 1) they can install the improvements now, 2) require the improvements and bond until they are put in, or 3) waive the improvements. Mr. Collinsworth said it is staff's contention that this is still a major subdivision.

Mr. Berbach asked if there needed to be two motions, one for the Sketch/Plat and one for the Public Hearing. Mr. Collinsworth said that would be best.

Mr. McFarland said if the subdivision is approved with a waiver for the public improvements and the bond, then a can of worms is being opened up and every developer will come to us and want those waivers. The rules are in the code for a reason and that is how the roads get improved to handle the extra traffic that is generated from this. He understood that this is only a 5-acre tract but what do we do next time for 50 acres, with 2,000 ft. of road frontage. Are we going to waive the requirements for them? We don't want to stick the City with the cost of installing those improvements. There was discussion on the improvements that were done on Evanston Road.

Mr. Jaydee Blair approached the podium. He asked how future

lot splits would be done if they front a road. He asked if the City was encouraging urban sprawl if we require a \$85,000 bond. One house could be put on it with one tax base. At a future date won't the City have to assess sometime down the road if the road is improved.

Mr. Collinsworth said the curb/gutter, sidewalk, and approach would be assessed not the road itself. That would be paid for by City funds with some sort of funds or grants possibly attained. He said the orderly expansion and development of the City requires the improvements to be made.

Mr. McFarland said the Board needed to do what it had to do and then this will be forwarded to City Council for approval and they may totally reject it. Mr. Horrocks said due to the costs being so unmanageable to bear for the property owners to make it a marketable piece of property, he thought it would be a good idea to waive those costs.

Mr. Horrocks **moved to approve the Pre-Application Sketch/Preliminary Plat and moved to set a public hearing for February 13, 2007 for the final consideration for Final Plat for proposed subdivision and to waive the non-assessable improvements for Inlot 2349.** Mr. Springer said he thought there was to be two motions.

Mr. Horrocks **moved to approve the Pre-Application Sketch/Preliminary Plat and to waive the improvements.** Mrs. Fennell asked for clarification as to if they were the "non-assessable" improvements. Mr. Horrocks **amended the motion by adding "the non-assessable improvements and the right-of-way dedication is required".** Mr. Berbach asked that the motion be repeated. Mrs. Fennell repeated that Mr. Horrocks moved to approve the Pre-Application Sketch/Preliminary Plat for Inlot 2349 waiving the non-assessable improvements and to require the dedication of right-of-way. Mr. Berbach seconded the motion. Mr. McFarland asked for any further discussion.

Mr. Vagedes stated that as a point of information by waiving the improvements, by our Code and Subdivision Regulations, the Board was obligating the City for the cost of the improvements of the streets in the future. The City can only assess curb/gutter/sidewalk. That would be \$175.00 a lineal foot for a street widening. We would be able to assess for \$25 a lineal ft for the curb/gutter/sidewalk, leaving a \$150 cost per lineal foot. Mr. Berbach said if a person built a single home on the lot the City was going to do that anyway. Mr. Vagedes said yes at the time the road is improved. He added that the other issue is that to dedicate the right-of-way a Plat is required. That plat is a subdivision and it has to go through Planning Board and approved by City Council to be recorded by the County.

Mr. Springer asked if the motion needed to be amended that this is a major subdivision rather than a minor subdivision. Mr. Collinsworth said that it is recognized that this is a major subdivision by the approval of the Pre-Application Sketch/Preliminary Plat and setting a public hearing for the Final Plat; that denotes a major subdivision but if the Board wishes to be more expressed it would not hurt to do so.

Miscellaneous
Thoroughfare Plan
(Ordinance 40-06)
Discussion

Mr. Horrocks said he would add that **the approval was for a major subdivision**. There was no further discussion.

Mr. McFarland called for roll call. The motion passed 3-1. Ayes: Horrocks, Berbach, and Springer. Nays: McFarland.

Mr. Horrocks **moved to set a public hearing for the Final Plat for February 13, 2007**. Mr. Berbach seconded the motion. Motion passed 3-1. Ayes: Horrocks, Berbach, and Springer. Nays: McFarland

Mr. Collinsworth said City Council adopted the final Thoroughfare Plan after a 3-4 year review. The final version was adopted December 18, 2006. The Planning Board reviewed it three years ago. There were some slight amendments made at the Council level. Mr. Vagedes said this Plan is a planning tool the Planning Board can now use. There was a number of bike trails added to the Plan and some additional roads that when and if those properties are developed, our guidelines for thoroughfare can be used. This Plan was reviewed by the Miami County Planning Board and the Monroe Twp. Trustees and in agreement with the Plan.

He asked the Board to refer to the second sheet which gave the details for the different widths of roadway with the measurements for curbing, bike trail, etc. He said the term "thoroughfare" in our code is a road or a street. The roadways shown where there are no roads are an approximation where they should be placed. He also pointed out that Donn Davis Way was put on to be completed, if there are ever funds with a crossing over the railroad. This was a recommendation by Planning Board a number of years ago.

Mr. Springer asked how often the Thoroughfare Plan is updated. Mr. Vagedes said 1989 was the last time. Typically when the city limits have been expanded such as with the growth of Spring Hill, Cottonwood, etc. it should be looked at every 10 years or so.

Mr. Collinsworth said those new roads are shown so that in an undeveloped corridor there needs to be north/south, east/west movement to tie into existing road networks.

Mr. Paul Lee asked about the different designations of roadway width. Mr. Vagedes showed that the different roads are varied due to the amount of traffic using the roads, lanes needed, etc. Mr. Lee asked if the developer or the City would pay, for example, the Donn Davis Way extension. Mr. Collinsworth said most would be done as development occurs by the developer. In very rare circumstances, if the City is able to attain grant funding for the installation of a new road that could be used but again that was far from the norm. Mr. Lee brought up Evanston Road and wouldn't it be more beneficial to fill in the gap between York Meadows and Hunters Ridge. Mr. Collinsworth said unfortunately part of the problem is that some parcels are not annexed into the City at the same time. This is not uncommon to see in any growing communities.

When a road is improved and the City does not have the right-of-way, then the right-of-way must be acquired. Mr. Collinsworth said that was done on County Road 25A north of Main Street to widen it to 5

lanes. Mr. Lee asked if the Kerr Road property donated the right-of-way, wasn't it saving the City money when the road is improved. Mr. Collinsworth said we are trying to provide for an orderly development of the City and to require that roads be installed as development occurs which is the most cost-effective approach for the City. Mr. Vagedes asked what if the property owner had decided to divide it into 5 lots, with 80 foot frontage. He asked if that would have made it more feasible for the expense to install the improvements. Mr. Lee said he thought it would be.

Mr. Lee asked if it was possible to build on a smaller lot with no water or sewer available. Mr. Vagedes said there was an approval for a mound septic to be installed on the two lots.

Mr. Horrocks asked that this line of discussion be continued after the meeting as it had nothing to do with the Thoroughfare Plan. Mr. McFarland agreed. Mr. Lee said he was just interested in how the City determined the width that the streets had to be. Mr. Vagedes said the number of lanes, the amount of traffic determines that.

City Council Reports:
December 18, 2006

Mr. McFarland reported that the City recognized the Business and Small Business of the Year, A.O. Smith and Midwest Memories. The Glaser property was given permanent zoning of R-1, the Thoroughfare Plan was adopted, the annual budget was adopted, and the recodified Code of Ordinances was adopted. Public hearings for rezonings were set for Captor Corporation and the Don Wright property. A Holiday Reception was held after the meeting.

January 2, 2007

Mr. McFarland reported that there were first readings for the Captor Corporation and Don Wright property rezonings. There were a variety of appointments made to the various Boards and Commissions.

Mr. McFarland reminded Mr. Berbach that he is to attend the February 5 City Council meeting

Board member
comments

Mr. Springer asked about two nuisance properties in Sycamore Woods, on Brookmere and Foxtail. Mr. Collinsworth reported that nuisance complaints were filed against the property owners. Subsequently those properties have recently sold at Sheriff's Sale and the process will begin again. He explained that since the City does not have a Comprehensive Maintenance Code but does have a Nuisance ordinance. The City is able to file a complaint with the Common Pleas Court for that action. This would ultimately give the City the authority to make improvements and assess those back to the property owner. The reason that course was taken was if you file a misdemeanor claim with the Civil division a violation may be charged and a fine is paid of \$50-\$100; that does not address the repair that needs to be made.

Mr. Horrocks asked about the wireless service installation on the water tower on Bowman Avenue. Mr. Collinsworth said the City had asked for some engineering details due to the weight, wind loadings and such. To his knowledge the City has never received back a report to our satisfaction. Mr. Vagedes said they had wanted to weld directly onto the structure and that was the reason for the information needed. He added that within our 5-year Plan, that water tank is slated to come down.

Adjournment

Mr. McFarland reported that there is a red, foreign-made car, no plates setting on a front yard on Bellaire Drive. The location was one of the doubles located in that vicinity. He also thanked the City for the nice Christmas decoration downtown.

There being no further business, Mr. Horrocks **moved that the meeting be adjourned.** Mr. Springer seconded the motion. The motion unanimously carried. Chairman McFarland declared the meeting adjourned at 9:30 p.m.

Michael McFarland, Planning Board Chairman

Attest: _____
Marilyn Fennell, Board Secretary